

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

ANDREW CORZO, SIA HENRY, ALEXANDER LEO-GUERRA, MICHAEL MAERLENDER, BRANDON PIYEVSKY, BENJAMIN SHUMATE, BRITTANY TATIANA WEAVER, and CAMERON WILLIAMS, individually and on behalf of all others similarly situated,

Plaintiffs,

v.

BROWN UNIVERSITY, CALIFORNIA INSTITUTE OF TECHNOLOGY, UNIVERSITY OF CHICAGO, THE TRUSTEES OF COLUMBIA UNIVERSITY IN THE CITY OF NEW YORK, CORNELL UNIVERSITY, TRUSTEES OF DARTMOUTH COLLEGE, DUKE UNIVERSITY, EMORY UNIVERSITY, GEORGETOWN UNIVERSITY, THE JOHNS HOPKINS UNIVERSITY, MASSACHUSETTS INSTITUTE OF TECHNOLOGY, NORTHWESTERN UNIVERSITY, UNIVERSITY OF NOTRE DAME DU LAC, THE TRUSTEES OF THE UNIVERSITY OF PENNSYLVANIA, WILLIAM MARSH RICE UNIVERSITY, VANDERBILT UNIVERSITY, and YALE UNIVERSITY,

Defendants.

Case No. 1:22-cv-00125

Hon. Matthew F. Kennelly

MOTION TO SEAL

Pursuant to Section 4 of the Amended Confidentiality Order (Dkt. No. 416-1) and Local Rule 26.2, Plaintiffs respectfully move to seal the testimony of Plaintiff Alexander Leo-Guerra (“Deposition Testimony”) referenced in both the Memorandum of Law in Response to the Student Objections Under FERPA filed by Defendant Trustees of the University of Pennsylvania

(Defendant’s “FERPA Response”) and the Exhibit 1 attached thereto in any publicly filed copies of the document. (Dkt. No. 554).

BACKGROUND

On July 28, 2023, the parties stipulated to an amended Confidentiality Order (Dkt. No. 416) which states that a party may designate as confidential deposition testimony which discusses “any document protected under the Family Educational Rights and Privacy Act (“FERPA”), including the application, financial aid, or educational records of any applicant, student or former student” or “highly sensitive confidential information” where “disclosure to another party or third party would result in specific demonstrable harm” to the disclosing party. (*Id.* ¶¶ 2(a)-(b), 4). Information or documents that are available to the public may not be designated as confidential information. (*Id.* ¶ 2(a).)

On December 18, 2023, the Trustees of the University of Pennsylvania (“Defendant”) filed under provisional seal a Memorandum of Law in Response to Students’ Objections Under FERPA. (Dkt. No. 554). Defendant’s motion refers to the Deposition Testimony, which Plaintiffs have designated as confidential information. (*Id.*) Defendant also filed as an exhibit an excerpt of the Deposition Testimony. (*Id.*).

LEGAL STANDARD

The sealing of otherwise public materials by this Court is governed by Local Rule 26.2: “[A] court may for good cause shown enter an order directing that one or more documents be filed under seal.” Loc. R. 26.2(b); *Marcial v. Rush Univ. Med. Ctr.*, 2018 WL 4144634, at *2 (N.D. Ill. Aug. 30, 2018). Good cause to seal confidential information may exist when the confidential material is non-dispositive or where documents contain trade secrets or other categories of sensitive confidential information. *Baxter Int’l, Inc. v. Abbott Labs.*, 297 F.3d 544, 545 (7th Cir.

2002). Documents can also be sealed under Federal Rule of Civil Procedure 26(c)(1) which states that “[t]he court may, for good cause, issue an order to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense.” Fed. R. Civ. P. 26(c)(1).

DISCUSSION

The Deposition Testimony should be sealed because it relates to student records that are protected under FERPA against public disclosure. In particular, the Deposition Testimony relates to student disciplinary records, which are considered educational records under FERPA. *See Painter v. Doe*, 2016 WL 3766466, at *4 (W.D.N.C. July 13, 2016) (experience with formal disciplinary protected from public disclosure under FERPA); *U.S. v. Miami Univ.*, 91 F.Supp.2d 1132, 1149 (S.D. Ohio 2000), *aff’d* 294 F.3d 797 (6th Cir. 2002) (disciplinary records are “education records” as defined by FERPA and thus protected from public disclosure). In addition, because of the nature of disciplinary records, there is also good cause to seal the Deposition Testimony to avoid the embarrassment that public disclosure would cause the Plaintiff. *See Goesel v. Boley Int’l (H.K.) Ltd.*, 738 F.3d 831, 833 (7th Cir. 2013) (finding that the presumption of public access can be rebutted “if there are compelling reasons of personal privacy”); *see also Lane v. Salgado*, 2014 WL 889306, at *2 (N.D. Ill. Mar. 5, 2014) (denying the dissemination of police misconduct claims and discipline because the harm on reputation).

CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests that the Court grant this Motion to Seal and enter an order requiring that any public-record version of Defendants’ Memorandum of Law in Response to Students’ Objections Under FERPA, including its exhibits, redact any reference to the Deposition Testimony.

Dated: December 20, 2023

Respectfully Submitted,

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